



**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION**

|                           |   |                                      |
|---------------------------|---|--------------------------------------|
| UNITED STATES OF AMERICA, | § |                                      |
|                           | § |                                      |
| vs.                       | § |                                      |
|                           | § | CRIMINAL ACTION NO.: 3:17-0640-MGL-6 |
| STEVEN MERLO,             | § |                                      |
| Defendant.                | § |                                      |

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**MEMORANDUM OPINION AND ORDER  
DISMISSING WITHOUT PREJUDICE DEFENDANT’S MOTION FOR  
MODIFICATION OF SENTENCE, DENYING MOTION FOR EMERGENCY ORDER,  
AND DENYING MOTION FOR REVIEW**

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Pending before the Court are Defendant Steven Merlo’s (Merlo) pro se motion to modify his sentence, motion for an emergency order for medical treatment, and motion for an order requiring review of medical treatment provided by the Bureau of Prisons (BOP). Having carefully considered the motions, the record, and the applicable law, it is the judgment of the Court Merlo’s motions will be denied.

First, Merlo asks the Court to modify his sentence to allow him to serve it in home confinement. The Court may modify a term of imprisonment upon motion of the defendant only after he “has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant’s behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility, whichever is earlier[.]” 18 U.S.C. § 3582(c)(1)(A)(i), as amended by the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194 (the First Step Act).

Upon review of Merlo's motion for modification of his sentence, appears he has failed to bring a request to the warden of his facility as required. The Court will thus refrain from entertaining his motion and will dismiss the motion without prejudice.

Second, the Court notes that a civil action under 42 U.S.C. § 1983 appears to be the appropriate vehicle to challenge his prison conditions. *See* 42 U.S.C. § 1997e (setting forth rules for suits by prisoners, including that a prisoner must first exhaust administrative remedies, including prison grievance procedures). Accordingly, the Court will also deny Merlo's motion for an emergency order for medical treatment and motion for an order requiring review of his medical treatment.

Therefore, based on the foregoing discussion and analysis, it is the judgment of the Court Merlo's motion for modification of sentence, ECF No. 938, is **DISMISSED WITHOUT PREJUDICE**; and his motion for an emergency order for medical treatment and motion for an order requiring review of medical treatment provided by the Bureau of Prisons BOP are **DENIED**.

**IT IS SO ORDERED.**

Signed this 18th day of October 2022, in Columbia, South Carolina.

s/ Mary Geiger Lewis  
MARY GEIGER LEWIS  
UNITED STATES DISTRICT JUDGE